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NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

CHAPTER Env-A 2900 MULTIPLE POLLUTANT ANNUAL BUDGET TRADING AND BANKING PROGRAM

Statutory Authority: RSA 125-O:8, I, II, & III

PART Env-A 2901 PURPOSE

Env-A 2901.01 Purpose. In order to reduce emissions of sulfur dioxide (SO₂), nitrogen oxides (NO_x), mercury (Hg), and carbon dioxide (CO₂), the purpose of this chapter is to establish:

- (a) New Hampshire's multiple pollutant annual budget trading and banking program;
- (b) The method for allocating allowances under that program; and
- (c) The requirements for emissions monitoring, recordkeeping, reporting, and automatic deduction of allowances to offset excess emissions.

Source. #7888, eff 5-13-03

PART Env-A 2902 APPLICABILITY

Env-A 2902.01 Applicability. This chapter shall apply to each owner or operator of an affected source.

Source. #7888, eff 5-13-03

Env-A 2902.02 Exclusion. Notwithstanding Env-A 2902.01, this chapter shall not apply to the owner or operator of an affected source upon commencement of operation after repowering.

Source. #7888, eff 5-13-03

Env-A 2902.03 References. For the purpose of this chapter, unless otherwise specified, the July 1, 2002 edition of title 40 of the Code of Federal Regulations (CFR) shall control all references to 40 CFR 72 and 40 CFR 75.

Source. #7888, eff 5-13-03

PART Env-A 2903 DEFINITIONS

Env-A 2903.01 "Account number" means the identification number given by the allowance tracking system (ATS) administrator to an account in which allowances are held in the ATS.

Source. #7888, eff 5-13-03

Env-A 2903.02 "Account" means the place in the ATS where allowances are recorded, and includes:

- (a) A compliance account;
- (b) A general account; or
- (c) An overdraft account.

Source. #7888, eff 5-13-03

Env-A 2903.03 "Acquiring account" means the party in an allowance transfer who obtains allowances through purchase, trade, auction, or gift.

Source. #7888, eff 5-13-03

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

Env-A 2903.04 “Affected sources” means “affected sources” as defined in RSA 125-O:2, I, namely, “existing fossil fuel burning steam power plant units in this state, specifically Merrimack Units 1 and 2 in Bow, Schiller Units 4, 5, and 6 in Portsmouth; and Newington Unit 1 in Newington, excluding any of these units that may be repowered.”

Source. #7888, eff 5-13-03

Env-A 2903.05 “Allocate” means the initial assignment of allowances to an affected source through this chapter and recorded by the ATS administrator to an ATS account. The term includes “allocation.”

Source. #7888, eff 5-13-03

Env-A 2903.06 “Allowance” means “allowance” as defined in RSA 125-O:2, II, namely, “a limited authorization to emit one ton of SO₂, one ton of NO_x, one pound of Hg, or one ton of CO₂ during a specified calendar year.”

Source. #7888, eff 5-13-03

Env-A 2903.07 “Allowance deduction” means the withdrawal of allowances from an ATS account for permanent retirement by the ATS administrator.

Source. #7888, eff 5-13-03

Env-A 2903.08 “Allowance tracking system (ATS)” means either:

(a) A system operated and maintained by the U.S. Environmental Protection Agency (EPA) for tracking SO₂ allowance use for the acid rain program and for tracking the number of allowances held and used by any person; or

(b) A system operated and maintained by either EPA or the department for tracking annual NO_x and CO₂ allowance use and for tracking the number of allowances held and used by any person.

Source. #7888, eff 5-13-03

Env-A 2903.09 “Allowance transfer” means the conveyance of one or more allowances from one account to another by whatever means, including but not limited to purchase, trade, auction, or gift in accordance with the procedures established in this chapter, effected by the submission of an allowance transfer request to the ATS administrator.

Source. #7888, eff 5-13-03

Env-A 2903.10 “Allowance transfer deadline” means 12:01 a.m. on January 31 and is the deadline for recording allowances in an affected source’s compliance or overdraft account for purposes of meeting the requirements of this chapter for the preceding calendar year.

Source. #7888, eff 5-13-03

Env-A 2903.11 “Alternative monitoring system” means a system or a component of a system, designed to provide direct or indirect data of mass emissions per time period, pollutant concentration, or volumetric flow, as provided for in this chapter.

Source. #7888, eff 5-13-03

Env-A 2903.12 “ATS administrator” means either:

(a) The administrator of EPA or the administrator’s authorized representative; or

(b) The commissioner of the New Hampshire department of environmental services (DES) or the commissioner's authorized representative.

Source. #7888, eff 5-13-03

Env-A2903.13 "Authorized Account Representative (AAR)" means the responsible person who is authorized, in writing, to transfer and otherwise manage allowances as well as to certify reports to the ATS and the ETS.

Source. #7888, eff 5-13-03

Env-A 2903.14 "Banked allowance" means an allowance which is not used to reconcile emissions in the designated year of allocation but which is carried forward into the next year and flagged in the account as banked.

Source. #7888, eff 5-13-03

Env-A 2903.15 "Banking" means the retention of unused allowances from one year for use in a future year.

Source. #7888, eff 5-13-03

Env-A 2903.16 "Baseline power generation output" means the combined total megawatt-hours (MWh) produced by all affected sources during calendar year 1999, namely 4,859,247 MWh.

Source. #7888, eff 5-13-03

Env-A 2903.17 "Bonus early allowance" means:

- (a) For SO₂, banked SO₂ allowances under the federal acid rain program;
- (b) For NO_x, banked NO_x allowances under Env-A 3200 from any affected source and banked NO_x discrete emissions reductions (DERs) from affected sources other than Merrimack Station Units 1 and 2 under Env-A 3100; and
- (c) For CO₂, the amount of CO₂ allowances that could have been purchased at market price by the same dollar amount as the expenditure made after the effective date of this chapter and before December 31, 2006 by PSNH independent of SBC funds for energy efficiency projects, new renewable energy projects, and conservation and load management projects at each PSNH facility.

Source. #7888, eff 5-13-03

Env-A 2903.18 "Budget" means total combined annual allocations.

Source. #7888, eff 5-13-03

Env-A 2903.19 "Compliance account" means the ATS account for each affected source that holds current and future year allowances useable for a specific designated calendar year as indicated by their serial number.

Source. #7888, eff 5-13-03

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

Env-A 2903.20 “Discrete emission reduction (DER)” means “discrete emission reduction” as defined in the EPA's proposed Model Open Market Trading Rule (60 FR 39668, August 3, 1995), namely, “an emission reduction generated over a discrete period of time, and measured in weight (e.g., tons).”

Source. #7888, eff 5-13-03

Env-A 2903.21 “Electric generating device” means any fossil fuel combustion device of 25 MW nameplate capacity or greater that provides electricity for sale or use.

Source. #7888, eff 5-13-03

Env-A 2903.22 “Electric output” means the electric generation, in MWh, from an electric generating device.

Source. #7888, eff 5-13-03

Env-A 2903.23 “Emissions tracking system (ETS)” means the computerized system operated and maintained by the EPA for tracking emissions for the Acid Rain Program, and for tracking emissions from affected sources.

Source. #7888, eff 5-13-03

Env-A 2903.24 “ETS administrator” means the administrator of EPA or their designated representative.

Source. #7888, eff 5-13-03

Env-A 2903.25 “Excess emissions” means emissions, rounded to the nearest whole ton, which are greater than the equivalent number of allowances which are available in the affected source’s compliance or overdraft account by the allowance transfer deadline for that year.

Source. #7888, eff 5-13-03

Env-A 2903.26 “Fossil fuel” means natural gas, petroleum, coal, or any form of solid, liquid, or gaseous fuel derived wholly, or in part, from such material.

Source. #7888, eff 5-13-03

Env-A 2903.27 “General account” means an ATS account:

- (a) That is not a compliance or an overdraft account; and
- (b) Where allowances are held by any person.

Source. #7888, eff 5-13-03

Env-A 2903.28 “Greenhouse gas (GHG)” means “greenhouse gas” as defined in RSA 125-L:1, IV, namely, “means but is not limited to such gases as carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, or sulfur hexafluoride.”

Source. #7888, eff 5-13-03

Env-A 2903.29 “Heat input” means the heat derived from the combustion of fuel in an affected source not including the heat derived from preheated combustion air, recirculated flue gas, or exhaust from other sources.

Source. #7888, eff 5-13-03

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

Env-A 2903.30 “Net electric output” means the final output of energy from a process after deducting any energy output consumed in any way related to generating energy through that process.

Source. #7888, eff 5-13-03

Env-A 2903.31 “Nameplate capacity” means the maximum unrestricted electrical generating output, in MW, that a generator can sustain over a specified period of time.

Source. #7888, eff 5-13-03

Env-A 2903.32 “Overdraft account” means the ATS account established by the ATS administrator for each facility where there are 2 or more affected sources, and where allowances are held by a group of affected sources.

Source. #7888, eff 5-13-03

Env-A 2903.33 “Ozone transportation region (OTR)” means the area designated by §184(a) of the Clean Air Act, as amended.

Source. #7888, eff 5-13-03

Env-A 2903.34 “PSNH” means Public Service Company of New Hampshire or its successor(s)-in-interests or assignee(s) or any organizational unit thereof.

Source. #7888, eff 5-13-03

Env-A 2903.35 “Recorded” for the purposes of an allowance transfer or deduction, means an ATS account that has been updated by the ATS administrator with the particulars of an allowance transfer or deduction.

Source. #7888, eff 5-13-03

Env-A 2903.36 “Renewable energy” means “renewable energy” as defined in RSA 125-O, VIII, namely, “energy derived from hydro, geothermal, wind, solar thermal, photovoltaic, biomass, methane waste, tidal, or other source approved by the department.”

Source. #7888, eff 5-13-03

Env-A 2903.37 “Repowered unit” means “repowered unit” as defined in RSA 125-O:2, IX.

Source. #7888, eff 5-13-03

Env-A 2903.38 “Submitted” means sent to the appropriate authority under the signature of the AAR.

Source. #7888, eff 5-13-03

Env-A 2903.39 “System benefits charge funds (SBC funds)” means “system benefits charge funds” or “SBC funds” as defined in RSA 125-O:2, X, namely, “revenues collected by PSNH (currently at a rate of 1.8 mills (\$0.0018) per retail kilowatt-hour sold as set by the general court in 2001, 29:14) to fund energy efficiency and conservation and load management programs approved by the public utilities commission.”

Source. #7888, eff 5-13-03

Env-A 2903.40 “Voluntary emission reduction (VER)” means a voluntary reduction of a greenhouse gas(es) generated over a discrete period of time, and measured in weight.

Source. #7888, eff 5-13-03

PART Env-A 2904 GENERAL PROVISIONS

Env-A 2904.01 Limited Authorization.

(a) The owner or operator of each affected source shall, no later than January 30 of each calendar year, hold respective quantities of SO₂, NO_x, and CO₂ allowances in the affected source’s respective ATS SO₂, NO_x, and CO₂ accounts equal to or greater than the respective total SO₂, NO_x, and CO₂ emitted from that affected source during the previous year.

(b) All allowances shall be allocated, transferred, or used as whole allowances.

(c) To determine the number of whole allowances, the number of allowances shall be rounded down for decimals less than 0.50 and rounded up for decimals of 0.50 or greater.

(d) Allowances shall not be considered offsets for purposes of this chapter, although NO_x allowances which are not used to satisfy the requirements of this chapter, and which are not banked, may be converted to non-ozone season NO_x DERs in accordance with Env-A 3100.

Source. #7888, eff 5-13-03

Env-A 2904.02 Conversion of Allowances to DERs or VERs. Each affected source that converts unused NO_x allowances to NO_x DERs in accordance with Env-A 2904.01(d) and the procedures for DER generation pursuant to Env-A 3103, or that converts unused CO₂ allowances to VERs in accordance with Env-A 3800, shall surrender those converted allowances as if they had been used for actual emissions.

Source. #7888, eff 5-13-03

Env-A 2904.03 Repowering. Each affected source that repowers after the effective date of this chapter, shall no longer receive allowances beginning on the date of commencement of operation after repowering.

Source. #7888, eff 5-13-03

Env-A 2904.04 Prohibition on Property Rights.

(a) Neither an allowance nor any future allocations, which are subject to modification by the department, shall constitute a security or other form of property.

(b) An allowance shall not be used prior to the year for which the allowance is allocated.

Source. #7888, eff 5-13-03

PART Env-A 2905 ANNUAL EMISSION BUDGETS FOR 2007 AND SUBSEQUENT YEARS

Env-A 2905.01 SO₂ Budget.

(a) The annual SO₂ budget shall be no more than 7,289 tons.

(b) The annual SO₂ budget shall be determined by multiplying the combined baseline power generation from the affected sources by 3.0 pounds per MWh.

Source. #7888, eff 5-13-03

Env-A 2905.02 NO_x Budget.

(a) The annual NO_x budget shall be no more than 3,644 tons including the seasonal NO_x allowances allocated to each affected source pursuant to Env-A 3200.

(b) The annual NO_x budget shall be determined by multiplying the combined baseline power generation from the affected sources by 1.5 pounds per MWh.

Source. #7888, eff 5-13-03

Env-A 2905.03 CO₂ Budget.

(a) The annual CO₂ budget shall be no more than 5,425,866 tons.

(b) The annual CO₂ budget shall be determined by multiplying the combined 1990 CO₂ emissions from the affected sources by 1.0.

Source. #7888, eff 5-13-03

PART Env-A 2906 ALLOWANCE ALLOCATION

Env-A 2906.01 Implementation of the Budgets.

(a) The department shall implement each emission budget prepared pursuant to Env-A 2905 by allocating allowances to each affected source beginning on December 31, 2006 and each year thereafter.

(b) Unused allowances may be banked, traded, or retired in accordance with this chapter.

Source. #7888, eff 5-13-03

Env-A 2906.02 Allocation of SO₂ Allowances.

(a) Each affected source shall transfer to the department all post-2006 annual SO₂ allowance allocations provided under the federal acid rain program.

(b) The department shall allocate 7,289 SO₂ allowances among the affected sources annually.

Source. #7888, eff 5-13-03

Env-A 2906.03 Allocation of NO_x Allowances.

(a) The department shall calculate the difference between the annual NO_x budget pursuant to Env-A 2906.02 and the seasonal NO_x allowances allocated to PSNH pursuant to Env-A 3200.

(b) The department shall allocate an amount of NO_x allowances equivalent to the difference calculated in (a), above, among the affected source annually.

Source. #7888, eff 5-13-03

Env-A 2906.04 Allocation of CO₂ Allowances. The department shall allocate 5,425,866 CO₂ allowances among the affected sources annually.

Source. #7888, eff 5-13-03

Env-A 2906.05 Allowance Allocation Methodology.

(a) By April 30, 2006 and by April 30 of each year thereafter, the department shall calculate allowance allocations for each affected source for 2007 and each year thereafter in accordance with (c), (d), (e), and (f) below.

(b) The department shall submit the allowance allocations for 2007 and each year thereafter to the ATS administrator.

(c) To calculate the number of allowances to be allocated to each affected source for the purposes of (d), (e), and (f) below, the following shall apply:

- (1) EO(y-2) means an affected source's net electrical output in MWh for the year 2 years prior to y;
- (2) EO(y-3) means an affected source's net electrical output in MWh for the year 3 years prior to y;
- (3) UAA(y) means an affected source's allocation for year y adjusted so that the total allocation does not exceed the budget; and
- (4) UUA(y) means an affected source's unadjusted allocation for year y.

(d) To calculate the adjusted SO₂ allocation for each individual affected source, for each year after 2006:

- (1) The affected source's average net electrical output in MWh for the years 2 and 3 years prior to the current year shall be multiplied by 3.0 lbs per MWh and divided by 2,000 lb/ton to calculate the affected source's unadjusted allocation for the current year, as in the formula below:

$$UUA(y) = \frac{((EO(y-2) + EO(y-3))/2) \times 3.0 \text{ lbs/MWh}}{2,000 \text{ lb/ton}}$$

- (2) The product, calculated in (1) above, shall be multiplied by the total SO₂ allocation pursuant to Env-A 2906.02, and divided by the sum of all affected sources' unadjusted allocations, as in the formula below:

$$UAA(y) = \frac{UUA(y) \times 7,289}{\text{sum of all affected sources' } UUA(y)}$$

(e) To calculate the adjusted NO_x allocation for each individual affected source, for each year after 2006:

- (1) The affected source's average net electrical output in MWh for the years 2 and 3 years prior to the current year shall be multiplied by 1.5 lbs per MWh and divided by 2,000 lb/ton to calculate the affected source's unadjusted allocation for the current year, as in the formula below:

$$UUA(y) = \frac{((EO(y-2) + EO(y-3))/2) \times 1.5 \text{ lbs/MWh}}{2,000 \text{ lb/ton}}$$

(2) The product, calculated in (1) above, shall be multiplied by the total NO_x allocation pursuant to Env-A 2906.03, and divided by the sum of all affected sources' unadjusted allocations, as in the formula below:

$$UAA(y) = \frac{UUA(y) \times \text{total NO}_x \text{ allocation}}{\text{sum of all affected sources' UUA}(y)}$$

(f) To calculate the adjusted CO₂ allocation for each individual affected source, for each year after 2006:

(1) The affected source's average net electrical output in MWh for the years 2 and 3 years prior to the current year shall be multiplied by 2,067.3 lbs per MWh and divided by 2,000 lb/ton to calculate the affected source's unadjusted allocation for the current year, as in the formula below:

$$UUA(y) = \frac{((EO(y-2) + EO(y-3))/2) \times 2,067.3 \text{ lbs/MWh}}{2,000 \text{ lb/ton}}$$

(2) The product, as calculated in (1) above, shall be multiplied by the total CO₂ allocation pursuant to Env-A 2906.04, and divided by the sum of all affected sources' unadjusted allocations, as in the formula below:

$$UAA(y) = \frac{UUA(y) \times 5,425,866}{\text{sum of all affected sources' UUA}(y)}$$

(g) Using the best available data as reported by the affected source to the Energy Information Administration and to the department no later than April 15 of each year, the department shall determine the net electric output for the affected source..

Source. #7888, eff 5-13-03

Env-A 2906.06 Energy Efficiency, New Renewable Energy, and Conservation and Load Management Bonus Allocation.

(a) The department shall allocate bonus CO₂ allowances to each affected source for each year, beginning in 2008, for expenditures made by the affected source independent of SBC funds for energy efficiency projects, new renewable energy projects, and conservation and load management projects occurring in the previous year at each PSNH facility.

(b) The amount of bonus CO₂ allowances allocated shall equal the amount of CO₂ allowances that could have been purchased at market prices by the same dollar amount as the expenditure made.

(c) The AAR of each affected source may submit a written request to the department no later than April 15 of each year requesting that the department distribute bonus CO₂ allowances to the affected source.

(d) The request shall include the following information:

(1) A signed statement certifying that the projects were consistent with the core energy efficiency programs approved by the public utilities commission (PUC) and shall, to the greatest extent practicable, result in immediate, demonstrable energy improvements;

(2) An assessment of the current market value of the bonus CO₂ allowances and costs of the expenditures made; and

- (3) A statement certifying that emission reductions that are converted to bonus CO₂ allowances shall not be used under any other program.

Source. #7888, eff 5-13-03

Env-A 2906.07 Bonus Allocation of SO₂ Allowances.

- (a) The department shall allocate bonus SO₂ allowances to each affected source for each year, beginning in 2008, for local reductions made by the affected source in the previous year.
- (b) The amount of bonus SO₂ allowances allocated for local reductions shall equal the difference between the annual average SO₂ emissions for the 3 years prior to the previous year and the annual SO₂ emissions for the previous year.
- (c) The AAR of an affected source shall submit a written request to the department, including detailed calculations of the 3-year average SO₂ emissions and the proposed amount of bonus SO₂ allowances to be allocated, no later than April 15 of each year requesting that the department distribute bonus SO₂ allowances for local reductions to the general account of the affected source.
- (d) Beginning in 2008, the department shall allocate one bonus SO₂ allowance to each affected source per year for every 4 SO₂ allowances that were:
- (1) Purchased by the affected source under the federal acid rain program;
 - (2) Used for compliance with the provisions of this chapter in the previous year; and
 - (3) Initially allocated to any source located within the OTR.
- (e) The AAR of each affected source shall submit a written request to the department, including serial numbers for SO₂ allowances and a statement identifying the name and location of the source to which the allowances were initially allocated, no later than April 15 of each year, requesting that the department distribute bonus SO₂ allowances for allowances purchased from within the OTR to the general account of the affected source.
- (f) The combined sum of all bonus SO₂ allowances received by the affected sources shall not exceed 20,000 in any given year.

Source. #7888, eff 5-13-03

PART Env-A 2907 ALLOWANCE TRANSFER AND USE

Env-A 2907.01 Marketable Emissions Authorizations. An allowance shall be a marketable emissions authorization that may be bought, sold, or traded at any time during any year, not just the current year.

Source. #7888, eff 5-13-03

Env-A 2907.02 Limited Authorizations. An allowance shall only be used for compliance with this program in a designated compliance year by being in a compliance or overdraft account as of the allowance transfer deadline, or by being transferred into the compliance account by an allowance transfer submitted by the allowance transfer deadline.

Source. #7888, eff 5-13-03

Env-A 2907.03 Transfer Procedures. The following procedures shall be employed to enact an allowance transfer:

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- (a) The AAR for the originating account shall authorize and certify the transfer request;
- (b) The transfer request shall be sent in writing or in electronic form to the ATS administrator;
- (c) The AAR for the originating account shall provide a copy of the transfer request to each owner or operator of the affected source; and
- (d) The transfer request, submitted pursuant to (b) above, shall contain the following information:
 - (1) The account number identifying both the originating account and the acquiring account;
 - (2) The name and address associated with the owners of the originating account and the acquiring account;
 - (3) The serial number for each allowance being transferred; and
 - (4) A statement of certification stated verbatim as follows: "I am authorized to make this submission on behalf of the owners and operators of the affected source and I hereby certify under penalty of law, that I have personally examined the foregoing and am familiar with the information contained in this document, and all attachments, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including possible fines and imprisonment."

Source. #7888, eff 5-13-03

Env-A 2907.04 Transfer Processing. The ATS administrator shall process transfer requests in order of receipt.

Source. #7888, eff 5-13-03

Env-A 2907.05 Transfer Completion. The transfer shall be complete when the ATS administrator has verified the following information:

- (a) Each allowance listed in the transfer request is held by the originating account at the time the transfer was recorded;
- (b) The acquiring party has an account in the ATS; and
- (c) The transfer request has been filed by the person named as AAR for the originating account.

Source. #7888, eff 5-13-03

Env-A 2907.06 Transfer Validation. The ATS administrator shall record allowance transfers determined to be valid, through verification by the ATS administrator, in the ATS by deducting the specified allowances from the originating account and adding it to the acquiring account.

Source. #7888, eff 5-13-03

Env-A 2907.07 Transfer Notification.

- (a) The ATS administrator shall send notification of an allowance transfer to the following:
 - (1) The AAR for the originating account; and
 - (2) The AAR for the acquiring account.

(b) The notification pursuant to (a) above, shall include the following information:

- (1) The effective date of the transfer;
- (2) Identification of the originating account and the acquiring account by name and by account number; and
- (3) The number of allowances transferred and their serial numbers.

(c) The notification pursuant to (a) above, shall be sent in writing or in electronic form.

Source. #7888, eff 5-13-03

Env-A 2907.08 Price Disclosure. Subject to a claim of confidentiality in accordance with Env-A 103, each affected source shall make available to any person, all information regarding transaction cost and allowance price.

Source. #7888, eff 5-13-03

Env-A 2907.09 Use of Allowances by Utilities. Pursuant to RSA 125-J:5,X, the use of allowances by a utility as defined in RSA 362:2, shall be subject to such additional conditions as ordered pursuant to applicable law by the PUC.

Source. #7888, eff 5-13-03

PART Env-A 2908 ALLOWANCE BANKING

Env-A 2908.01 Retention of Unused Allowances. The banking of allowances shall be permitted to allow the retention of unused allowances from one year to a future year in either a compliance account, an overdraft account, or a general account.

Source. #7888, eff 5-13-03

Env-A 2908.02 Account Designation. Unless otherwise permitted pursuant to Env-A 2909.03, unused allowances as of the end of the allowance transfer deadline, shall be retained in the compliance, overdraft, or general account and designated as banked allowances after the ATS administrator has made all deductions for a given year from the compliance account or overdraft account pursuant to Env-A 2913.

Source. #7888, eff 5-13-03

Env-A 2908.03 Bonus Early Allowances.

- (a) Bonus early allowances shall be eligible for a one-time conversion to allowances in 2007.
- (b) Bonus early allowances that are converted to allowances shall not be used as VERs, ERCs, or DERs.

Source. #7888, eff 5-13-03

Env-A 2908.04 Bonus Early Allowances Report. In accordance with RSA 91-A, the department shall make available to any person, a report documenting the number of bonus early allowances converted to allowances for use in 2007.

Source. #7888, eff 5-13-03

PART Env-A 2909 ALLOWANCE TRACKING SYSTEM (ATS)

Env-A 2909.01 Database Maintenance for Allowance Transfer and Use.

- (a) The ATS administrator shall maintain the ATS as the official database for all allowance use and transfer.
- (b) The ATS administrator shall track and maintain the following information:
 - (1) The allowances allocated to each affected source;
 - (2) The allowances held in each account;
 - (3) The allowances used by each affected source during each year;
 - (4) The accounts established for each affected source to determine compliance for the source;
 - (5) The accounts opened by individuals or entities, upon request, which are not used to determine compliance;
 - (6) The allowance transfers, as submitted voluntarily by the source; and
 - (7) The deductions of allowances for compliance purposes.

Source. #7888, eff 5-13-03

Env-A 2909.02 Compliance and Overdraft Accounts.

- (a) The ATS administrator shall establish 6 compliance accounts and 3 overdraft accounts.
- (b) The ATS administrator shall label each account with an account number.
- (c) The ATS administrator shall maintain the following information for each compliance and each overdraft account:
 - (1) The name of account owner;
 - (2) The mailing address of account owner;
 - (3) The name of AAR;
 - (4) The mailing address of AAR;
 - (5) The phone number of AAR;
 - (6) The street address of associated affected source; and
 - (7) The state in which the affected source is located.

Source. #7888, eff 5-13-03

Env-A 2909.03 General Accounts.

- (a) The ATS administrator shall allow for the establishment of general accounts.

(b) Any person or group may open a general account by designating an AAR and providing the ATS administrator with an account certificate of representation in accordance with Env-A 2909.04 and Env-A 2909.05, respectively.

Source. #7888, eff 5-13-03

Env-A 2909.04 Authorized Account Representative.

- (a) Only the AAR or alternate AAR shall request transfers of allowances in an ATS account.
- (b) For each compliance account, overdraft account, or general account, one AAR and one alternate shall be identified to represent the owner or operator of the affected source or the owner of a general account.
- (c) The AAR or alternate AAR shall be responsible for all transactions and reports submitted to the ATS.
- (d) The alternate AAR shall have the same authority as the primary representative, however, all correspondence from the ATS administrator shall be directed to the primary AAR.
- (e) The requirements for an AAR shall apply to both the owners of a general account and to the owner or operator of an affected source's compliance account and overdraft account.

Source. #7888, eff 5-13-03

Env-A 2909.05 Account Certificate of Representation.

- (a) The ATS administrator shall officially designate the AAR upon receipt of an Account Certificate of Representation (ACR) by the AAR.
- (b) The ACR shall contain the following information in an agreement of representation:
 - (1) The identification of the affected source by plant name, state, and boiler number for which the ACR for each compliance account is submitted;
 - (2) The name, address, telephone number, and facsimile number of the authorized AAR and any alternate AAR; and
 - (3) A list of the owner(s) and operator(s) of the affected source for each compliance account.
- (c) The AAR or alternate AAR shall sign the account certificate of representation.
- (d) The ACR for each compliance account shall contain the following statement, verbatim:

“I certify that I, (name of AAR) was selected as the AAR as applicable by an agreement binding on the owners and operators of the affected source legally designated as (name of plant) . I certify that I have all the necessary authority to carry out my duties and responsibilities under the Multiple Pollutant Annual Budget Trading and Banking Program on behalf of the owners and operators of the affected source and of each unit at the source and that each such owner and operator shall be fully bound by my representations, actions, inactions, or submissions and by any decision or order issued to me by the department, the administrator, or a court regarding the source or unit.”
- (e) The designation of an AAR for each affected source shall be completed no later than 10 days after the effective date of this chapter.

(f) A new AAR shall be designated by submitting a revised ACR to the ATS administrator, with the following information:

- (1) All of the information pursuant to (b) and (c) above; and
- (2) The name of the AAR who is being replaced.

(g) The ATS administrator shall record the change of AAR in the ATS.

(h) After the change of AAR has been recorded, the ATS administrator shall send notification of the change of AAR to the department.

Source. #7888, eff 5-13-03

Env-A 2909.06 Serial Numbers.

- (a) Each facility account shall have an identification number.
- (b) The ATS administrator shall assign a serial number that indicates the year of allocation to each allowance.

Source. #7888, eff 5-13-03

PART Env-A 2910 EMISSIONS MONITORING

Env-A 2910.01 General Requirements.

(a) The owner(s), operator(s), and the AAR, of each affected source shall comply with the monitoring and reporting requirements as provided in this part and in 40 CFR 75, Subpart H.

(b) For purposes of complying with the requirements of (a) above, the definitions in 40 CFR §72.2 and 40 CFR 75 shall apply, except that:

- (1) The term “affected unit” shall be replaced with the term “affected source” as defined in Env-A 2903.04; and
- (2) The term “designated representative” shall be replaced with the term “AAR” as defined in Env-A 2903.13.

Source. #7888, eff 5-13-03

Env-A 2910.02 Requirements for Installation, Certification, and Data Accounting. No later than 10 days after the effective date of this chapter, the owner or operator of each affected source shall:

- (a) Install all monitoring systems required under this part for monitoring mass emissions, including all systems required to monitor emission rate, concentration, heat input, net electrical output, and flow, in accordance with 40 CFR 75;
- (b) Successfully complete all certification tests required and meet all other provisions of this part and 40 CFR 75 applicable to the monitoring systems under paragraph (a), above; and
- (c) Record and report data from the monitoring systems under paragraph (a), above.

Source. #7888, eff 5-13-03

Env-A 2910.03 Prohibitions.

(a) No owner or operator of any source monitored under 40 CFR §75.72(b)(2)(ii) shall use any alternative monitoring system, alternative reference method, or any other alternative for the required continuous emission monitoring system without having obtained prior written approval from the department and EPA in accordance with this part.

(b) No owner or operator of any source monitored under 40 CFR §75.72(b)(2)(ii) shall operate the unit so as to discharge, or allow to be discharged, emissions to the atmosphere without accounting for all such emissions in accordance with the applicable provisions of this part and 40 CFR 75 except as provided for in 40 CFR §75.74.

(c) No owner or operator of any source monitored under 40 CFR §75.72(b)(2)(ii) shall disrupt the continuous emission monitoring system, any portion thereof, or any other approved emission monitoring method, except for periods of recertification or periods when calibration, quality assurance testing, or maintenance is performed in accordance with the applicable provisions of this part and 40 CFR 75 except as provided for in 40 CFR §75.74.

(d) No owner or operator of any source monitored under 40 CFR §75.72(b)(2)(ii) shall permanently discontinue the use of the continuous emission monitoring system, any component thereof, or any other approved emission monitoring system under this part, except under any one of the following circumstances:

- (1) The owner or operator is monitoring emissions from the unit with another certified monitoring system approved, in accordance with the applicable provisions of this part and 40 CFR 75, by the department for use at that unit that provides emission data for the same pollutant or parameter as the discontinued monitoring system; or
- (2) The AAR submits notification to the department and the ETS administrator of the date of certification testing of a replacement monitoring system in accordance with the applicable provisions of this part.

Source. #7888, eff 5-13-03

Env-A 2910.04 Initial Certification and Recertification Procedures. The owner or operator of an affected source shall comply with the initial certification and recertification procedures of 40 CFR 75.

Source. #7888, eff 5-13-03

Env-A 2910.05 Certification/Recertification Procedures for Alternative Monitoring Systems.

(a) The AAR of each unit applying to use an alternative monitoring system approved by the ATS administrator and, if applicable, the department under 40 CFR 75, Subpart E, shall apply for certification to the department prior to use of the system under this chapter.

(b) The AAR shall apply for recertification following a replacement or modification according to the procedures in Env-A 2910.04.

(c) The owner or operator of an alternative monitoring system shall comply with the notification and application requirements for certification according to the procedures specified in Env-A 2910.04 and 40 CFR §75.20(f).

Source. #7888, eff 5-13-03

Env-A 2910.06 Out of Control Periods.

(a) Whenever any monitoring system fails to meet the quality assurance requirements of 40 CFR 75, Appendix B, data shall be substituted using the applicable procedures in 40 CFR 75, Subpart D, Appendix D or Appendix E.

(b) Whenever both an audit of a monitoring system and a review of the initial certification or recertification application reveal that any system or component should not have been certified or recertified because it did not meet a particular performance specification or other requirement under this part or the applicable provisions of 40 CFR 75, both at the time of the initial certification or recertification application submission and at the time of the audit, the department shall issue a notice of disapproval of the certification status of such system or component to the owner or operator of the affected source.

(c) For the purposes of this section, an audit shall be either a field audit or an audit of any information submitted to the department or the ATS administrator.

(d) The data measured and recorded by the system or component shall not be considered valid quality-assured data from the date of issuance of the notification of the disapproval of certification status until the date and time that the owner or operator completes subsequently approved initial certification or recertification tests in accordance with Env-A 2910.04 or Env-A 2910.05.

(e) The owner or operator of an affected source shall follow the initial certification or recertification procedures for each disapproved system in accordance with Env-A 2910.04 or Env-A 2910.05.

Source. #7888, eff 5-13-03

Env-A 2910.07 Notification. The AAR for an affected source shall comply with the notification requirements of 40 CFR §75.61, except that the notice shall also be submitted to the ATS administrator.

Source. #7888, eff 5-13-03

Env-A 2910.08 Recordkeeping and Reporting General Provisions.

(a) The AAR shall comply with all recordkeeping and reporting requirements in this part and with the requirements of Env-A 2909.05.

(b) Any submission made in accordance with 40 CFR 75, Subpart F or Subpart G which includes data and information required under this part or of 40 CFR 75, Subpart H, shall be signed by both the AAR and the designated representative as defined in Env-A 101.93.

Source. #7888, eff 5-13-03

Env-A 2910.09 Monitoring Plans. The owner or operator of an affected source shall comply with the requirements of 40 CFR §75.62, except that the monitoring plan shall also include all of the information required by 40 CFR 75, Subpart H.

Source. #7888, eff 5-13-03

Env-A 2910.10 Certification Applications. The AAR shall submit an application to the department within 45 days after completing all initial certification or recertification tests including the information required under 40 CFR 75, Subpart H.

Source. #7888, eff 5-13-03

Env-A 2910.11 Quarterly Reports.

- (a) The AAR shall submit a quarterly report:
- (1) For each calendar quarter beginning with the calendar quarter that includes the date and hour of initial certification;
 - (2) To the ATS administrator within 30 days following the end of the calendar quarter covered by the report;
 - (3) In the manner specified in 40 CFR 75, Subpart H and 40 CFR §75.64; and
 - (4) Including all of the data and information required in of 40 CFR 75, Subpart H for each affected source, or group of units using a common stack, as well as information required in of 40 CFR 75, Subpart G.
- (b) The AAR shall submit to the ATS administrator a compliance certification in support of each quarterly report based on an inquiry of those persons with primary responsibility for ensuring that all of the unit's emissions are correctly and fully monitored.
- (c) The certification pursuant to (b) above, shall state that:
- (1) The monitoring data submitted were recorded in accordance with the applicable requirements of this part and 40 CFR 75, including the quality assurance procedures and specifications;
 - (2) For a unit with add-on emission controls and for all hours where data are substituted in accordance with 40 CFR §75.34(a)(1), the add-on emission controls were operating within the range of parameters listed in the monitoring plan and the substitute values do not systematically underestimate emissions; and
 - (3) The emission rate and concentration values substituted for missing data under of 40 CFR 75, Subpart D do not systematically underestimate emissions.

Source. #7888, eff 5-13-03

PART Env-A 2911 REPORTING

Env-A 2911.01 Electronic Format.

- (a) The AAR for each affected source shall submit, in electronic format using EPA's electronic data reporting (EDR) convention, emissions and operations information as specified in Env-A 2910.
- (b) Emissions and operations information shall be submitted to the ETS administrator within 30 days of the end of any quarter in which the owner or operator is required to report.

Source. #7888, eff 5-13-03

Env-A 2911.02 Pounds per Hour and Pounds per Year. The owner or operator of each affected source shall provide the ETS administrator, in the same quarterly reports, and in a format consistent with Env-A 2911.01, SO₂, NO_x, and CO₂ emissions in pounds per hour for every hour during the year and cumulative quarterly and annual SO₂, NO_x, and CO₂ emission data in pounds.

Source. #7888, eff 5-13-03

Env-A 2911.03 Quarterly Reporting. Each affected source shall submit the data required pursuant to Env-A 2911.01 and Env-A 2911.02 to EPA as part of the quarterly reports submitted to EPA for the purpose of compliance with 40 CFR 75.

Source. #7888, eff 5-13-03

PART Env-A 2912 END-OF-SEASON RECONCILIATION

Env-A 2912.01 Determination of Compliance. Monitored emissions data as reported by the affected source to the ETS administrator, and as adjusted by the administrator to be in accordance with Env-A 2910, combined with allowance allocations and transfers recorded in the ATS, shall provide the basis for a determination of compliance with this chapter.

Source. #7888, eff 5-13-03

Env-A 2912.02 Request for Deduction of Allowances.

(a) Each year prior to January 30, the AAR shall request the ATS administrator to deduct previous year allowances from the compliance account or overdraft account equivalent to the number of available allowances to cover the emissions during the previous year.

(b) The AAR shall submit the request to the ATS administrator no later than the allowance transfer deadline, January 30.

(c) The AAR shall identify the compliance account or overdraft account from which the deductions should be made.

(d) The AAR shall identify the serial number of the allowances to be deducted.

(e) If the AAR does not specify a serial number, allowances usable for that compliance year shall be deducted in the order of their arrival into the affected source's account, with allocated allowances being deducted first, followed by the deduction of transferred allowances.

Source. #7888, eff 5-13-03

Env-A 2912.03 Deduction of Allowances. Regardless of the request for deductions submitted pursuant to Env-A 2912.02, the ATS administrator shall deduct a number of allowances equal to the previous year emissions from the affected source's compliance account or overdraft account, and determine whether sufficient allowances are in the account equivalent to the emissions.

Source. #7888, eff 5-13-03

Env-A 2912.04 Procurement of Additional Allowances. If the emissions of the affected source in the previous year exceed the allowances in the affected source's compliance account and overdraft account, the affected source shall obtain additional allowances by the allowance transfer deadline so the total number of allowances in the affected source's compliance account and overdraft account, including allowance transfers properly submitted to the ATS administrator by the allowance transfer deadline, equals or exceeds the previous year annual emissions rounded to the nearest whole ton.

Source. #7888, eff 5-13-03

PART Env-A 2913 COMPLIANCE CERTIFICATION

Env-A 2913.01 Submittal. For each year, the AAR for each affected source shall submit an annual compliance certification to the department.

Source. #7888, eff 5-13-03

Env-A 2913.02 Deadline. The compliance certification shall be submitted by January 30 of each year.

Source. #7888, eff 5-13-03

Env-A 2913.03 Content. The compliance certification shall contain the following information:

- (a) Identification of the affected source, including:
 - (1) The name of the affected source;
 - (2) The address of the affected source;
 - (3) The name of the AAR; and
 - (4) The ATS account number;
- (b) A statement whether emissions data has been submitted to the ETS:
 - (1) In accordance with the procedures established in Env-A 2911; and
 - (2) In conformance with the requirements of the ETS administrator;
- (c) A statement whether the affected source:
 - (1) Operated in compliance with the allowances allocated for the year, including those obtained through transfer by the allowance transfer deadline;
 - (2) Held sufficient allowances in its compliance account and overdraft account for the year, as of the allowance transfer deadline, to equal or exceed the recorded emissions for the year; and
 - (3) Was actually operated and maintained in accordance with the applicable monitoring plan;
- (d) A statement of certification that all emissions from the affected source were accounted for, either through:
 - (1) Applicable monitoring; or
 - (2) Applying appropriate missing data procedures; and
- (e) A statement to indicate whether there were any changes during the current year in the method of:
 - (1) Operating the affected source; or
 - (2) Monitoring the affected source.

Source. #7888, eff 5-13-03

Env-A 2913.04 Compliance Verification. The department shall verify compliance by the following means:

- (a) Inspecting facility operating records;

- (b) Obtaining information on allowance deduction and transfers from the ATS;
- (c) Obtaining information on emissions from the ETS;
- (d) Information relative to testing emission monitoring devices; and
- (e) Requiring the affected source to conduct emissions testing under the supervision of the department.

Source. #7888, eff 5-13-03

PART Env-A 2914 ENFORCEMENT PROVISIONS

Env-A 2914.01 Automatic Deduction. If emissions from an affected source exceed allowances held in the affected source's compliance account or overdraft account for the year as of the allowance transfer deadline, the ATS administrator shall automatically deduct allowances from the affected source's compliance account or overdraft account for the next year at a rate of 3 allowances for every one ton of excess emissions.

Source. #7888, eff 5-13-03

Env-A 2914.02 Determination of Violations. In accordance with RSA 125-O:7, for purposes of enforcement of this chapter, the following shall apply:

- (a) In determining the number of days of violation, any excess emissions for the year shall create a presumption that each day in the year of 365 days, constitutes a day in violation unless the affected source can demonstrate, through use of verifiable emission data, that a lesser number of days should be considered; and
- (b) Each ton of excess emissions shall constitute a separate violation.

Source. #7888, eff 5-13-03

PART Env-A 2915 PROGRAM AUDITS AND ASSESSMENTS

Env-A 2915.01 Audits.

- (a) The department shall conduct an audit of the program beginning in 2010 and every 3 years thereafter to ensure that the program is providing expected performance in regards to emissions monitoring and allowance use.
- (b) Such audits shall include, as appropriate:
 - (1) Confirming emissions reporting accuracy through validation of CEMS and data acquisition systems at the affected source; and
 - (2) Reviewing allowance transfer and use by the affected source, geographically and temporally.
- (c) Each periodic audit shall examine the extent to which banked allowances have, or have not, contributed to emissions in excess of the budget for each year preceding the audit.

Source. #7888, eff 5-13-03

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Env-A 2915.02 Program Assessments. The department shall conduct an assessment of the program by December 31, 2010 to determine whether further reductions of emissions that impair visibility are needed from the utility sector based on relative contribution of utility sector emissions to total emissions of fine particulates and precursors from all sectors.

Source. #7888, eff 5-13-03

Env-A 2915.03 Recommendations. If an audit or an assessment results in a recommendation for program revisions, the department shall propose the appropriate program revisions as changes to current procedures or modifications to this regulation to the general court for legislative enactment.

Source. #7888, eff 5-13-03

APPENDIX

Provision of the Proposed Rule	Specific State or Federal Statutes or Regulations which the Rule is Intended to Implement
Env-A 2901	RSA 125-O:8, I, II, and III; RSA 125-O:6, I
Env-A 2902	RSA 125-O:6, I; RSA 125-O:8, I
Env-A 2903	RSA 125-O:2
Env-A 2904	RSA 125-O:6, I; RSA 125-O:8, I
Env-A 2905	RSA 125-O:3, III
Env-A 2906	RSA 125-O:3, II and III; RSA 125-O:4, IV; RSA 125-O:5; RSA 125-O:8, II
Env-A 2907	RSA 125-O:6, I; RSA 125-O:8, I
Env-A 2908	RSA 125-O:6, I; RSA 125-O:8, I
Env-A 2909	RSA 125-O:6, I; RSA 125-O:8, I
Env-A 2910	RSA 125-O:8, III
Env-A 2911	RSA 125-O:8, III
Env-A 2912	RSA 125-O:6, I; RSA 125-O:8, I
Env-A 2913	RSA 125-O:6, I; RSA 125-O:8, I
Env-A 2914	RSA 125-O:6, I; RSA 125-O:7; RSA 125-O:8, I
Env-A 2915	RSA 125-O:6, II; RSA 125-O: 8, III